

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**SAMANTHA JO FOLIO,**

**Plaintiff,**

**v.**

**CIVIL NO. 1:22-CV-109  
(KLEEH)**

**ALORICA, INC.,**

**Defendant.**

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**ORDER ADOPTING OMNIBUS REPORT AND RECOMMENDATION [ECF NO. 38]**

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On December 6, 2022, the pro se Plaintiff, Samantha Jo Folio ("Plaintiff"), filed an Amended Complaint against the Defendant, Alorica, Inc. ("Defendant"). Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloia (the "Magistrate Judge") for initial review. Defendant filed a motion to dismiss Counts Two and Three on January 6, 2023 [ECF No. 23]. On May 16, 2023, the Magistrate Judge entered an Omnibus Report and Recommendation ("R&R"), recommending, among other things, that the Court grant the motion to dismiss.

The R&R informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned them that the "[f]ailure to timely

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file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." Plaintiff accepted service of the R&R on May 20, 2023. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R in its entirety [ECF No. 38]. For the reasons discussed in the R&R, the Court hereby **ORDERS** the following:

- Defendant's motion to dismiss is **GRANTED** [ECF No. 23];
- Counts Two and Three of the Amended Complaint are **DISMISSED WITH PREJUDICE**;

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- Defendant's Motion to Strike Plaintiff's Sur-Reply is **DENIED** [ECF No. 31];
- Plaintiff's Motion to Strike and Motion to Compel Discovery is **DENIED IN PART** and **GRANTED IN PART** [ECF No. 30]; and
- Plaintiff's remaining motions are **DENIED** [ECF Nos. 32, 33, 34].

Pursuant to 28 U.S.C. § 636 and the Local Rules, the Court again **REFERS** this matter to the Honorable Michael J. Aloi, United States Magistrate Judge, to conduct a scheduling conference and issue a scheduling order, for written orders or reports and recommendations, as the case may be, regarding any motions filed, and to dispose of any other matters that may arise.

It is so **ORDERED**.

The Court **DIRECTS** the Clerk to transmit copies of this Order to counsel of record; to the pro se Plaintiff via certified mail, return receipt requested; and to the Honorable Michael J. Aloi, United States Magistrate Judge.

DATED: June 12, 2023

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THOMAS S. KLEEH, CHIEF JUDGE  
NORTHERN DISTRICT OF WEST VIRGINIA